IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Bail Appl..No. 7840 of 2007()

CC.270/2006 of J.M.F.C.,ALATHUR

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PETITIONER/3RD ACCUSED

SUBASH, AGED 21 YEARS,
S/O. SUBRAMANIAN, NELLANKARA HOUSE,
NETTUSERY P.O., THRISSUR.

BY ADV. SRI.S.M.PREM
SMT.K.P.SANTHI
SRI.S.S.HUSSAIN
SRI.P.K.NIJOY

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7840 OF 2007

Dated this the 19th day of December, 2007

O R D E R

Application for anticipatory bail. Petitioner is the 3rd accused and he, along with the co-accused, faces allegations under section 379 read with 34 IPC.

2. The petitioner was not arrested in the course of the investigation. Final report was filed. Cognizance was taken. The petitioner entered appearance through counsel. His absence was excused on a couple of occasions but on the ground that he was not present on 10.9.07, warrant of arrest has been issued against the petitioner. The petitioner finds such warrant of arrest chasing him.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered

by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

4. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in ***Alice George Vs. Deputy Superintendent of Police*** [2003 (1) KLT 339].

5. In the result, this petition is dismissed but with the specific observation that if the petitioner surrenders before the

learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

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